

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 11-CR-117

GENARO AVILA-RODRIGUEZ,

Defendant.

ORDER DENYING MOTION FOR REDUCTION OF SENTENCE

On March 5, 2015, Defendant Genaro Avila-Rodriguez filed a Motion for Reduction of Sentence pursuant to 18 U.S.C. § 3582(c). Defendant claims that he is entitled to a sentence reduction pursuant to Guideline Amendment 782. That amendment reduced the offense severity score under the Guidelines by two levels for drug offenses. Defendant argues that his 96-month sentence should, therefore, be reduced.

Defendant was convicted of Manufacture and possession with intent to distribute marijuana upon entry of a guilty plea. At sentencing, he was held accountable for 2,600 kilograms of marijuana, which put his base offense level at 32. The Court accepted increases for Possession of Firearms and Maintaining a Premises to Manufacture Drugs, and a decrease for acceptance, which brought the base offense level to 33. The criminal history is Category I, leaving a Guideline range of 135 to 168 months imprisonment. Despite this range, the Court imposed a sentence of only 96 months.

Under the amended Guidelines, the base level would be reduced to 30, instead of 32. With the enhancements and reduction found by the Court, his total offense level would be 31. His

amended Guideline range would, therefore, be 108 to 135 months, still significantly more than the 96-month sentence imposed by the Court.

Under these circumstances, the Court has no authority to grant the defendant's motion. A district court may not reduce a defendant's term of imprisonment under 18 U.S.C. § 3582(c)(2) to a term that is less than the minimum of the amended Guideline range. USSG § 1B1.10(b)(2)(A); *Dillon v United States*, 130 S. Ct. 2683, 2691-92 (2010); *United States v. Anderson*, 488 Fed. Appx. 129 (7th Cir. 2012). Because Avila-Rodriguez received a sentence less than the amended Guideline range, he is not entitled to further relief. Accordingly, the motion is denied.

Dated this 6th day of March, 2015.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court